

REMARKS

Claims 1, 2, 4-7, 9, 11-13, 16, 18 and 20-22 have been amended. Claims 3, 8, 10, 14, 15, 17 and 19 have been canceled. Claims 1, 2, 4-7, 9, 11-13, 16, 18 and 20-22 remain in the application.

The abstract of the disclosure was objected to due to the use of the word “means”. The abstract has been amended accordingly.

Claims 1-22 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In particular, the Examiner indicated that it is unclear what is being set forth as “comprising”, the container or the device. The claims have been amended to more distinctly claim the device.

Claims 1 and 8 were rejected under 35 U.S.C. §102(b) as being anticipated by Wall. Claim 8 has been canceled. The Applicant traverses this rejection with respect to claim 1.

U.S. Patent Number 5,077,050 to Wall discloses in figure 5 a device 102 having at least one sidewall 106 which extends from a base 104 to an opposed lid support 108. Three legs 112 extend from the container, and the support end of the legs have “blunt” surfaces in order to penetrate the food item when the device is in the box. The device includes a top cover 116 mounted on the lid support surface of the container. The top cover has a rim extending around the surface of the cover and the rim has an interior lip 133, and the container has a ridge 120 extending from the outer wall, allowing the top cover to interlock with the container. The cover can rotate relative to the lid support surface 108. The cover can have an aperture 128 to dispense the contents of the container 102. Wall ‘050 does not disclose that the upper member and leg member each have a related second function respectively that is different from the first function.

In contradistinction, claim 1 discloses a multifunctional device for supporting a lid of a container in order to protect an item stored within the container. The device includes a generally planar upper member, and at least one leg member detachably connected to the upper member by a connecting means and projecting from a surface of the upper member. The upper member and the leg member have a first function together as a lid support when the leg member and the upper member are attached. The upper member and leg member each have related second functions that are different from the first function when the leg member is detached from the upper member.

Wall '050 does not disclose, anticipate or otherwise suggest the claimed invention of claim 1. Wall '050 merely discloses a device having a container and a leg attached directly to the container. Wall discloses that the container holds condiments related to the food item in the box. Wall does not disclose that the leg member is detachable from the container, or that each of the container and the leg member would have a second related use different from the first use as a container, as disclosed by the Applicant. Again, the specification of Wall does not teach a second use of the container without the legs and a second use of the legs, and that these second uses are related. In fact, Wall teaches away from the detachability of the legs, since the base portion of the container is curved (column 3, line 69). There is simply no teaching in the specification of Wall that the leg member is detachably attached to the upper member by a connecting means or that the container and detached leg member would each have a second function when the connecting member is severed, and the second functions are related to each other but not to the first function.

Therefore, the Applicant respectfully submits that claim 1 as amended and the claims dependent therefrom are in a condition for allowance, which allowance is solicited.

Claims 1 and 10 were rejected under 35 U.S.C. §102(b) as being anticipated by Gould. Claim 10 has been canceled. The Applicant respectfully traverses this rejection with respect to claim 1.

U.S. Patent Number 5,173,070 to Gould discloses a protection device having a first member 20 in the shape of a shallow inverted circular saucer, and a second member surrounding the first member and spaced apart from the first member. The first member is connected to the second member by a plurality of equidistantly spaced webs 24 that are thinner than the first member and second member. One permanent leg projects from the center of the first member, and a plurality of permanent legs project from the second member. The webs are broken to separate the first member from the second member so that the first member has a second use as a child's toy. Gould does not disclose that the legs are detachable from the first or second member for another function, as disclosed by the Applicant.

Gould does not disclose, anticipate or otherwise suggest the claimed invention of claim 1. Gould merely discloses a device having a first member detachably connected to a second member and a leg projecting from the first member and the second member. Gould does not disclose that the leg is detachably connected to the upper member by a connecting means, or that the detached leg has another function, as taught by the Applicant. Gould is structurally distinguishable from the present invention since the first member is detachably connected to a second member, and a permanently attached leg is not the same structure as a leg detachably connected to the first member. There is simply no teaching in the specification of Gould regarding the detachability of the leg from the first or second member, or a reason for detaching the leg. Further, there is no teaching in Gould that the attached first member and second member and leg have a first function, and the detached first member, second member and leg member

each have a second function that is related. In fact, Gould teaches a second use of the device as a finger flicking disc (held using the center leg) or a spinning top that rotates about the leg. The leg is clearly necessary to the function of the device taught by Gould.

Therefore, the Applicant respectfully submits that claim 1 and the claims dependent therefrom are in a condition for allowance, which allowance is solicited.

Claims 1, 9 and 20 were rejected one 35 U.S.C. §102(e) as being anticipated by Steck et al. The Applicant traverses this rejection.

U.S. Patent Number 6,694,619 to Steck discloses a disposable food cutting utensil. The utensil includes a first member divided into a portion having a cutting edge 1 and a handle area 2, and a removable second inner member 3. A removable leg 5 projects from the first member.

Steck et al. '619 does not disclose, anticipate or otherwise suggest the claimed invention of claim 1. Steck et al. '619 merely discloses a device having a first member detachably connected to a second member and a leg projecting from the first member. Steck et al. '619 does not disclose that the legs are detachable from the first or second member, or that the legs have another function when detached that is related to the function of the first or second member, as taught by the Applicant.

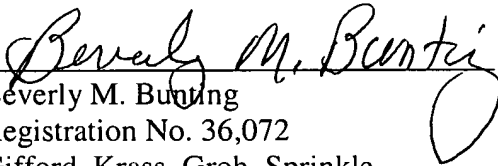
Therefore, the Applicant respectfully submits that claim 1 and the claims dependent therefrom are in a condition for allowance, which allowance is solicited.

Claims 3, 7, 13, 14, 18 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gould in view of Beck. Claims 3 and 14 have been canceled. The Applicant traverses this rejection for the reasons set forth above with respect to Gould. Therefore, the Applicant respectfully submits that these claims and the claims dependent therefrom are in a condition for allowance, which allowance is solicited.

The Examiner indicated that claims 2, 4-6, 11, 12, 15-17, 19 and 22 would be allowable if rewritten to overcome the rejections under 35 U.S.C. §112, second paragraph, and to include the limitations of the base claim and any intervening claims. The Applicant has amended these claims accordingly. Therefore, the Applicant respectfully submits that claims 2, 4-6, 11, 12, 15-17, 19 and 22 are in a condition for allowance, which allowance is solicited.

Based on the above, Applicant submits that the claims are in a condition for allowance, which allowance is respectfully solicited. If the Examiner finds to the contrary, it is respectfully requested that the undersigned in charge of this application be called at the telephone number given below to resolve any remaining issues.

Respectfully submitted,



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